IN THE HIGH COURT OF UTTARANHCAL AT NAINITAL

Writ Petition No. 662 (S/S) of 2006

Ashok Kumar Verma,
son of Sri Brahamjeet Verma,
resident of Public Works Department Colony,
Inspection House Campus,
Haridwar Road, Rishkesh
presently posted as Junior Engineer (Civil)
in Temporary Division Public
Works Department, Rishikesh,
Dehradun. **…….Petitioner**

V e r s u s

1. Union of India through Secretary Department of Personnel and Training Pension and Public Grievances, III Floor, Lok Nayak Bhawan, Khan Market, New Delhi.
2. Chairman, State Level Advisory Committee, constituted under U.P. Reorganisation Act, C/o Department of Personnel and Training Pension and Public Grievances, III Floor, Lok Nayak Bhawan, Khan Market, New Delhi.
3. Secretary, Public Works Department, Uttaranchal, Dehradun.
4. Chief Engineer Level- I. Public Works Department, State of Uttaranchal, Dehradun.
5. Executive Engineer, Temporary Division, Public Works Department, Rishikesh, Dehradun.
6. Principal Secretary State of U.P., Public Works Department, Lucknow.
7. Engineer in Chief, Public Works Department, Lucknow.

…….Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri M.C. Pant, learned counsel for the petitioner Smt. Anjali, learned standing counsel for the Union of India on

behalf of respondents no. 1 and 2, Smt. Beena Pandey, learned standing counsel for State of Uttar Pradesh on behalf of respondents no. 6 and 7 and Sri Paresh Tripathi, learned standing counsel for State of Uttaranchal on behalf of respondents no. 3, 4 and 5.

Petitioner, who is working as Junior Engineer in Public works Department in the State of Uttaranchal, has filed the present writ petition for the following reliefs:-

(a) issue a writ, order on direction in the nature of Certiorari to quash the impugned order dated 07.02.2006 which was communicated to the petitioner on 31.03.2006 and order dated 02.02.2006 and final allocation order dated 09.11.2005 in which the name of the petitioner has been included.

(b) Issue a writ, order or direction in the nature of Mandamus directing the respondents no. 1 and 2 to reconsider the order dated 09.11.2005 and to include the name of the petitioner for State of Uttaranchal and further treat him the member of the Hill Sub Cadre on account of appointment for his Hill Sub Cadre by the Public Service Commission and to allow him all the benefits of promotion and seniority being a member of Hill Sub Cadre employees and further direct the respondents to allow the petitioner to service in the State of Uttaranchal treating him a member of Hill Sub Cadre and allot for State of Uttaranchal.

(c) Issue a writ, order or direction in the nature of Mandamus directing the respondent no. 3 to 5 to allow the petitioner to continue to serve in

Uttaranchal and to give him benefit of promotion etc. treated him as the member of Uttaranchal cadre and hill sub cadre along with all consequential benefits

(d) Issue any other, order or direction which this Hon'ble Court may deem fit and proper in the circumstance of the present case.

(e) award cost of petition to the petition.

The submission of the learned counsel for the petitioner is that petitioner, who was appointed, as Junior Engineer on 27.07.1990 is permanent resident of State of Uttar Pradesh. Earlier he opted for State of Uttar Pradesh, however, on 21.02.2002 he had opted for State Uttaranchal.

Respondent nos. 1 and 2 issued Tentative Final Allocation List (hereinafter referred to as TFAL) in respect of PWD employees on 09.11.2005. In the aforesaid list, the name of the petitioner finds palace in the list of employees who have been allocated State of U.P. Consequently, vide order dated 02.02.2006 / 07.02.2006, State of Uttaranchal passed an order directing the petitioner to join in the State of U.P. Even after passing of order dated 02.02.2006 / 07.02.2006 petitioner continued to work in the State of Uttaranchal till 24.04.2006 and with effect from 24.04.2006 petitioner is on medical leave. In the meantime, on 12.05.2006 respondent no. 2 has passed an order that the employees of PWD may not be relieved for State of U.P. in pursuance to TFAL dated 09.11.2005 in view of the fact that TFAL dated 09.11.2005 is under reconsideration.

Smt. Anjali, learned counsel for respondent nos. 1 and 2 has submitted that she has received instruction that the said TFAL dated 09.11.2005 has already been stayed by respondent nos. 1 and 2 and the said list shall be reconsidered in the meeting, which is going to be held on 04.06.2006.

In view of the aforesaid circumstances, petitioner shall not be relieved for State of U.P. till the respondents no. 1 and 2 take final decision on the TFAL, which is expected to be finalized on 04.06.2006.

With this direction the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J)

May 17, 2006
SKSharma